

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

BURNELL RICH aka A. BURNELL RICH
and SHERRIL RICH,
PETITIONERS,

Vs.

MOUNTAIN OIL AND GAS, INC. and
HOMELAND GAS AND OIL, LTD.,
RESPONDENTS.

**RESPONSE TO THE DIVISION'S
MEMORANDUM AND STAFF
RECOMMENDATION and MOTION
FOR ORDER**

DOCKET NO. 2010-015

CAUSE NO. 131-127A

Comes now the Petitioners, Burnell Rich aka A. Burnell Rich and Sherrill Rich, and in Response and in partial support of the Division's Recommendation, state the following:

1. Petitioner's are in receipt of the Division's Staff Memorandum to the Board in this matter which is dated April 15th, 2010. The Petitioners are in support of the Division's recommendation that the Board enter an order that the royalty amounts currently due and future payments attributable to their legal entitlement be escrowed by the Respondents. However, the Petitioner's believe

(a) That the Communitization Agreement (CA) does not contain enough information to determine the Petitioner's legal entitlement amount; and

(b) That the Division, absent that information being contained in the CA, which is the document which must be relied on to determine the legal entitlement amount, does not have enough information to determine their legal entitlement amount.

2. Petitioner's submit as an attachment to this Response the Communitization Agreement in question which was also submitted as Exhibit L in Docket No. 2010-19, Cause No. 131-130.

Critical information needed to determine a legal entitlement amount is not available in the CA.

(a) Tract 1 information for A. Burnell Rich et al (on page 8) does not have available the undivided amount of ownership in the Tract. By referencing the CA Plat and Recapitulation Schedule it is clear there are 62.56 acres in Tract 1 but absent the undivided ownership amount of each owner it is impossible to determine the legal entitlement amount.

(b) Tract 4 information for James Curtis and Debra Curtis (on page 9) does not have available the undivided amount of ownership in the Tract. By referencing the CA Plat and Recapitulation Schedule it is clear there are 40 acres in Tract 4 but absent the undivided ownership amount of each owner it is impossible to determine the legal entitlement amount.

(c) Tract 5 information for Brenda Mojado (on page 10) does not have available the undivided amount of ownership in the Tract. By referencing the CA Plat and Recapitulation Schedule it is clear there are 40 acres in Tract 5 but absent the undivided ownership amount of each owner it is impossible to determine the legal entitlement amount.

3. The Petitioner's also believe that if, as the Division states in their recommendation, "The Division requested and was supplied by the operator critical royalty information for the entire section. The Division has the necessary information to calculate the amount the petitioners are owed." Then essentially the investigation has already been done and there is no reason the Board cannot enter an order for the relief requested in the Petition in Section C.3 as to payment

CERTIFICATE OF SERVICE

I, Burnell Rich and I, Sherril Rich, hereby certify that on the 28th day of April, 2010, we did cause to be mailed, postage prepaid, the foregoing RESPONSE TO THE DIVISION'S MEMORANDUM AND STAFF RECOMMENDATION and MOTION FOR ORDER to the following parties:

Mountain Oil and Gas, Inc.
P.O. Box 1574
Roosevelt, Utah 84066

Homeland Gas and Oil, Ltd.
P.O. Box 1776
Roosevelt, Utah 84066

Signed: Burnell Rich
Burnell Rich, Petitioner

Signed: Sherril Rich
Sherril Rich, Petitioner

of all Proceeds within 30 days along with interest at a rate of 1½% per month and a penalty of 25% of the delinquent proceeds due and owing.

WHEREFORE, Petitioners respectfully motions the Board for an order

- A. Escrowing all of the Proceeds due and owing and future Proceeds attributable to Tract 1 in its entirety until such time as it can be determined what the undivided interest amount of each owner in the Tract is; and
- B. Escrowing interest at the rate of 1½% per month for those due and owing Proceeds amounts the Division has knowledge of; and
- C. Escrowing a penalty of 25% of Proceeds due and owing the Division has knowledge of; and
- D. Continuing this matter without date to allow time for CA matters to be clarified and settled; OR, ALTERNATIVELY
- E. Requiring all proceeds to which the Petitioners are entitled be disbursed within 30 days, as well as interest at the rate of one and one-half percent (1½%) per month from date of delinquency; and a penalty of twenty-five percent (25%) of the delinquent proceeds due and owing the Petitioners, all as the Division has knowledge of; and
- F. Such other relief as the Petitioner's prayed for in their petition.

Dated this 28th day of April, 2010.

Signed

Burnell Rich
Burnell Rich, Petitioner, Address as below

Signed

Sherril Rich
Sherril Rich, Petitioner
1381 S. 2350 W.
Vernal, Utah 84078
435-789-2811--Home

COMMUNITIZATION AGREEMENT

THIS AGREEMENT, WITNESSETH, That

WHEREAS the parties hereto own working, royalty, patented or fee or leasehold interests, or operating rights under oil and gas leases, on lands subject to this agreement which can be best developed and operated in conformity with a well spacing program; and

WHEREAS, to conserve natural resources the parties hereto desire to communitize and pool their respective mineral interests for the purpose of developing and producing communitized substances in accordance with the Acts of May 11, 1938, 52 Stat. 347, as amended, 25 U.S.C. 396a et seq., and March 3, 1909, 35 Stat. 783, as amended, 25 U.S.C. 396;

NOW, THEREFORE, the parties agree as follows:

1. Communitized Area.

The lands covered by this agreement (hereinafter referred to as "communitized area") are described as follows:

Township 2 South, Range 1 East, U.S.M.
Section 2: All
Containing 650.90 acres, m/l
Uintah County, Utah

This agreement shall include only the following formations:
That interval below the stratigraphic equivalent of 9,600 feet depth in the "E" log of the Carrer #2 Bluebell Well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3, Township 1 South, Range 2 West, U.S.M. (which equivalence is the depth 9,530 feet of the sp curve, Dual Induction log, run March 15, 1968, in the Chevron #1 Blanchard Well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 3 to the base of the Green River-Wasatch formations.

2. Acreage and Ownership.

Attached hereto is a plat designed as Exhibit "A" showing the communitized area.

Attached hereto is Exhibit "B" showing the acreage, percentage and ownership of oil and gas interests in all lands within the communitized area, and the authorization, if any, for communitizing or pooling any patented or fee lands within the communitized area.

3. Operator.

The Operator of the communitized area shall be Uinta Oil & Gas, Inc.

Matters of operation shall be governed by the designated Operator. Owners of the working interest in the communitized area may nominate a successor operator by filing four (4) executed copies of a Designation of Successor Operator with the Deputy Minerals Manager, Minerals Management Service (herein referred to as D.M.M.), for approval by the Superintendent.

4. Reports.

Operator shall furnish the Secretary of the Interior, or his authorized representative, with (1) monthly reports of operations, statements of oil and gas production and such other reports as are deemed necessary to compute allocable oil and gas, (2) compliance with applicable regulations by the 15th day following the month reported on; (3) history of each well in the communitized area within 15 days of completion of the well or approval of the well; and (3) such other reports as may be required by applicable oil and gas regulations.

5. Communitized Substances.

The communitized area shall be operated and operated as a unit. All communitized substances produced therefrom shall be allocated among the owners in the proportion that the percentage interests of each interest owner bears to the entire acreage interest owned to this agreement. Production of production on one parcel in the communitized area shall be considered as production from each parcel therein.

(2)

6. Segregation of Leases.

Any portion of an Indian leasehold interest not included within the communitized area is hereby segregated from that portion included within the communitized area, and is considered as a separate lease with the same parties subject to all of the terms of the original lease, excepting only the portion committed thereto.

7. Royalties.

The royalties payable on communitized substances allocated to the individual leases comprising the communitized area and the rentals provided for in said leases shall be determined and paid on the basis described in each of the individual leases.

8. Full Development.

The D.M.M. may either require the drilling and production of such wells as, in his opinion, are necessary, to insure reasonable diligence in the development and operation of the communitized area, or in lieu thereof, require the payment of an amount as determined by the D.M.M. to compensate the interest owners in full each month for the estimated loss of royalty.

The Operator shall:

(1) Drill and produce all wells necessary to offset or protect the communitized area from drainage, or in lieu thereof, to compensate the interest owners in full each month for the estimated loss of royalty through drainage. The necessity for offset wells shall be determined by the D.M.M. Payment in lieu of drilling and production shall be with the consent of, and in an amount determined by, the D.M.M.

(2) Drill and produce other wells, at the election of the Operator, subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary and affecting the communitized area.

9. Production and Disposal under Federal Law.

Production of communitized substances and disposal thereof shall be in conformity with allocation, allotments and quotas made or fixed by any duly authorized person or regulatory body under applicable Federal statutes. No party hereto shall suffer a forfeiture or be liable in damages for failure to comply with any of the provisions of this agreement if such compliance is prevented by, or if such failure results from compliance with, Federal laws and regulations or orders issued thereunder.

10. Effective Date.

This agreement becomes effective when all interest owners or someone authorized to act in their stead have executed this instrument or a counterpart thereof and the same has been approved by the Superintendent. The terms of the agreement shall apply to all production, either prior to or subsequent to the effective date, as of the date of first production and shall remain in force and effect so long thereafter as communitized substances are produced from the communitized area in paying quantities. In the event that any lease committed to this agreement is beyond its primary term prior to production in paying quantities, the lease terms apply.

11. Secretarial Supervision.

The Secretary of the Interior or his designate shall have the right of supervision over all operations within the communitized area to the same extent and degree as provided in the oil and gas lease in which owners of Indian Lands are lessors and in the applicable oil and gas regulations of the Department of the Interior.

12. Covenants Running with the Land.

The covenants herein shall be construed to be covenants running with the land with respect to the communitized interests of the parties hereto and their successors in interests until this agreement terminates. Any grant, transfer or conveyance of any such land or interest subject hereto, whether voluntary or not, shall be and hereby is conditioned upon the assumption of all obligations hereunder by the grantee, transferee or other successor in interest, and as to Indian Lands shall be subject to approval by the Secretary of the Interior.

13. Nondiscrimination.

In connection with the performance of work under this agreement, the operator agrees to comply with all of the provisions of Section 202 (1) to (7), inclusive, of Executive Order 11246 (30 FR 12319), giving, however, such reference as applicable law permits.

14. Signing of Agreement by Counterparts.

This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instrument, in writing, specifically referring hereto, and shall be binding upon all parties who have executed such counterpart, ratification or consent hereto with the same force and effect as if all parties had signed the same document.

15. Lease Terms Control as Modified.

Oil and gas leases in the communitized area shall remain in force except as herein modified.

(3)

DATED AND APPROVED this 20th day of March, 1996, by the United States of America, acting through the Bureau of Indian Affairs, and delegated to the Superintendent by Phoenix Area Redelagation Order No. 3, Sec. 2-17 (34 Fed. Reg. 11109).

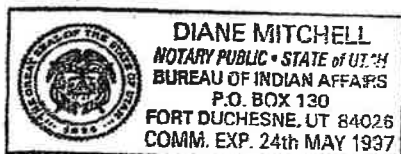


 Superintendent
 CAC

ACKNOWLEDGEMENT OF SUPERINTENDENT

State of UTAH
 County of UINTAH } ss:

BEFORE ME, a Notary Public, in and for said County and State, on this 20th day of March, 1996, personally appeared DAVID L ALISON, whose name is subscribed to the foregoing instrument as Superintendent, Uintah and Ouray Agency, Bureau of Indian Affairs, and who acknowledged that he now is and was at the time of signing the same, Superintendent of the Uintah and Ouray Agency, Bureau of Indian Affairs, and he personally acknowledged to me that he executed this said document in his official capacity and pursuant to authority delegated to him for the use and purpose set forth therein.





 Notary Public

My Commission Expires: 5-24-97

Attached to and made a part of that certain Communitization Agreement Covering T2S, R1E,
Section 2, U.S.M.

Uinta Oil & Gas Inc.

By Craig Phillips
Craig Phillips

ACKNOWLEDGMENT

State of Utah

ss:

County of Uintah

On the 26th day of September, 1996, personally appeared before me, Craig Phillips
who being by me duly sworn did say that he is the President of Uinta Oil & Gas Inc., lessee,
and that this lease was signed in behalf of said corporation by authority of its bylaws or a
resolution of its Board of Directors dated Aug 16 - 96, and acknowledged to me
that said corporation executed the same.

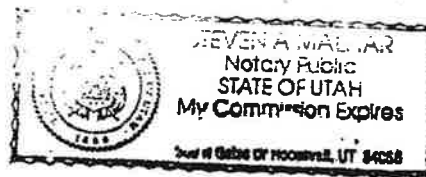
Deven A. Malnar
Notary Public

Residing at

Dooseville UT

My Commission Expires:

Oct 16 - 1999



Attached to and made a part of that certain Communitization Agreement Covering T2S, R1E,
Section 12, U.S.M.

Ute Indian Tribe

By Ruby Atwine

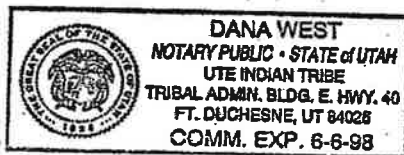
ACKNOWLEDGMENT

State of Utah

ss:

County of Uintah

On the 10th day of November, 1996, personally appeared before me, who being by me duly sworn did say that she is the Chairman of The Tribal Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and that this Communitization Agreement was signed in behalf of the Ute Tribe by authority of its constitution and bylaws and a resolution of the Tribal Business Committee dated Mar 28, 1996 (96-054) and acknowledged to me that the Ute Tribe executed the same.



Dana West
Notary Public

Residing at Ft. Duchesne, Ut

My Commission Expires: 6/6/98

Attached to and made a part of that certain Communitization Agreement Covering T2S, R1E,
Section 12, U.S.M..

Ute Distribution Corporation

By Lois LaRose
Lois LaRose

ACKNOWLEDGMENT

State of Utah

ss:

County of Duchesne

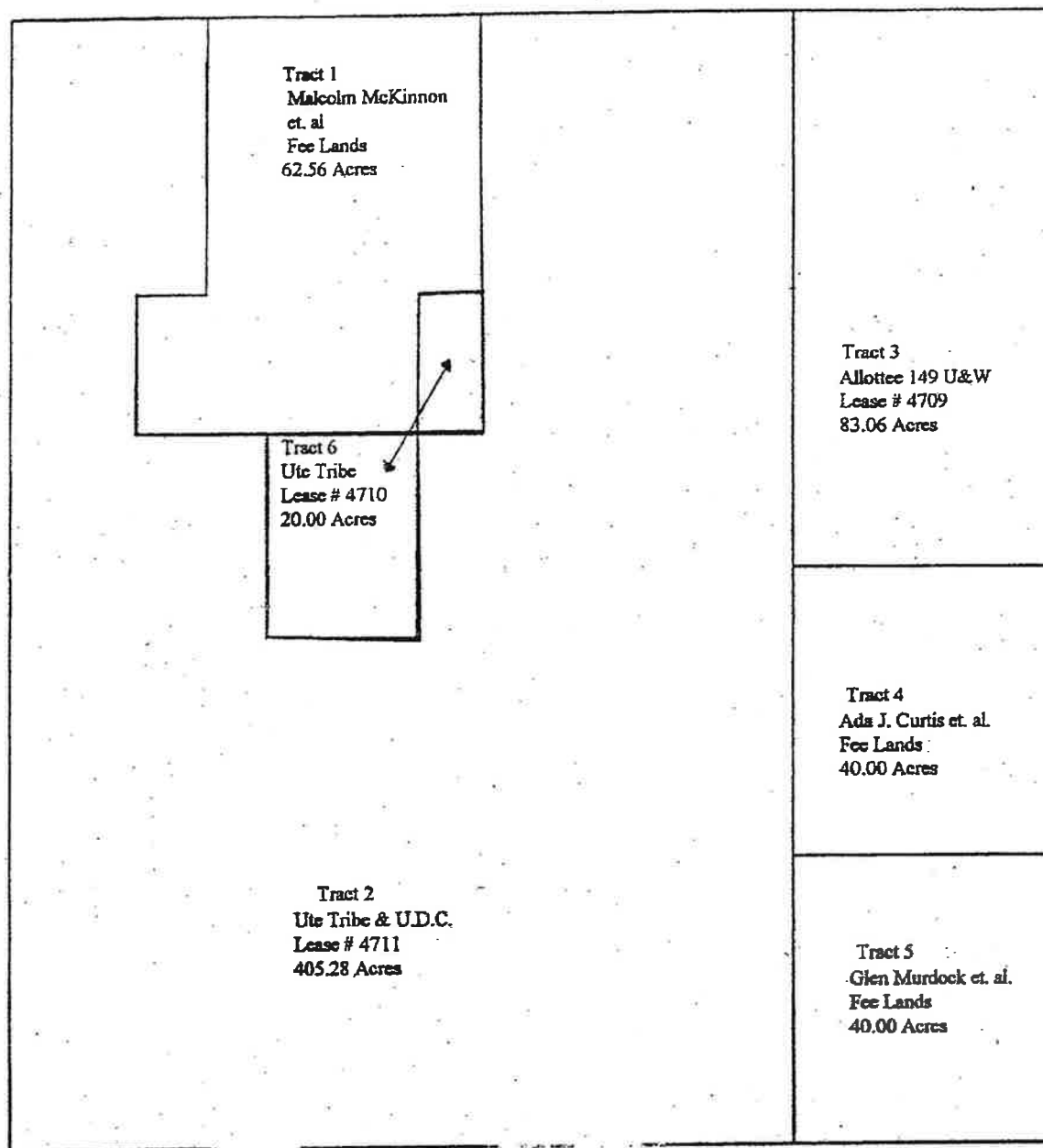
On the _____ day of September, 1996, personally appeared before me Lois LaRose, who being by me duly sworn did say that she is the President of Ute Distribution Corporation lessee, and that this lease was signed in behalf of said corporation by authority of its bylaws or a resolution of its Board of Directors dated _____, and acknowledged to me that said corporation executed the same.

Notary Public

Residing at _____

My Commission Expires: _____

TOWNSHIP 2 SOUTH, RANGE 1 EAST U.S.M.
SECTION 2: ALL (650.90 acres)



**RECAPITULATION
SCHEDULE**

TOTAL

Tract 1	62.56	9.61%
Tract 2	405.28	62.27%
Tract 3	83.06	12.76%
Tract 4	40.00	6.14%
Tract 5	40.00	6.14%
Tract 6	20.00	3.08%
TOTAL	650.90 Acres	100.00%

Township 2 South, Range 1 East, U.S.M.

Section 2: All (650.90 acres)

Uintah County, Utah

TRACT 1

Lessor: Malcolm N. McKinnon Zions Bank Trustee

Lessee: Uinta Oil & Gas, Inc.

Date of Lease: May 6, 1996

Recorded: Bk 634 pg 225

Base Royalty:

Description: Township 2 South, Range 1 East, U.S.M.
Section 2: Lots 6, 7, 8, NE/4 SW/4 NW/4,
NW/4 SE/4 NW/4

Gross Acres: 62.56

Name and Percentage of working interest owners: Uinta Oil & Gas, Inc. 100%

Name and Percentage of Overriding Royalty Owners: None

Pooling Provision: Yes

Lessor: A. Burnell Rich et al

Lessee: Uinta Oil & Gas, Inc.

Date of Lease: May 3, 1996

Recorded: Bk 632 pg 266

Base Royalty:

Description: Township 2 South, Range 1 East, U.S.M.
Section 2: Lots 6, 7, 8, NE/4 SW/4 NW/4,
NW/4 SE/4 NW/4

Gross Acres: 62.56

Name and Percentage of working interest owners: Uinta Oil & Gas, Inc. 100%

Name and Percentage of Overriding Royalty Owners: None

Pooling Provision: Yes

Lessor: Hank Swain Family Trust

Lessee: Unleased.

Date of Lease:

Recorded:

Base Royalty:

Description: Township 2 South, Range 1 East, U.S.M.
Section 2: Lots 6, 7, 8, NE/4 SW/4 NW/4,
NW/4 SE/4 NW/4

Gross Acres: 62.56

Name and Percentage of working interest owners: Uinta Oil & Gas, Inc. 100%

Name and Percentage of Overriding Royalty Owners: None

Pooling Provision:

TRACT 2

Lessor:
Lessee:
Date of Lease:
Recorded:
Base Royalty:
Description:

Ute Tribe & U.D.C #14-20-H62-4711.
Uinta Oil & Gas, Inc.
April 24, 1996
Bk 634 pg 248

Township 2 South, Range 1 East, U.S.M.
Section 2: Lots 2, 5, 9, 10, SE/4SW/4NW/4,
W/2SW/4NW/4, E/2NE/4SE/4NW/4,
SE4SE4NW/4, W2SW/4, W2SE4, SE4SW4
S2NE/4SW/4, NE/4NE/4SW/4, S/2NW/4NE/4SW/4

Gross Acres:
Name and Percentage of working interest owners:
Name and Percentage of Overriding Royalty Owners:
Pooling Provision:

405.28
Uinta Oil & Gas Inc
none
yes

TRACT 3

Lessor:
Lessee:
Date of Lease:
Recorded:
Base Royalty:

Allotment # 149 U&W # 14-20-H62-4709
Uinta Oil & Gas Inc.
April 24, 1996
Bk 634 pg 240

Description:

Township 2 South Range 1 East USM
Section 2: Lot 1, SE4NE4 (E2NE4)

Gross Acres:
Name and Percentage of working interest owners:
Name and Percentage of Overriding Royalty Owners:
Pooling Provision:

83.06
Uinta Oil & Gas Inc. 100%
none
yes

TRACT 4

Lessor:
Lessee:
Date of Lease:
Recorded:
Base Royalty:
Description:

James Curtis and Debra Curtis
Uinta Oil & Gas Inc.
Sept. 7, 1996
bk 634 pg 222

Township 2 South, Range 1 East USM
Section 2: NE4SE4

Gross Acres:
Name and Percentage of working interest owners:
Name and Percentage of Overriding Royalty Owners:
Pooling Provision:

40.00
Uinta Oil & Gas Inc. 90%
none
yes

Lessor: Wiser Oil Co., RMA Inc., Western Petroleum,
Ada Curtis, Mable C Burrus estate, Merele Curtis

Lessee: Loader, Lois C. Mortensen et al
Unleased

Date of Lease:

Recorded:

Base Royalty:

Description: Township 2 South, Range 1 East USM
Section 2: NE4SE4
40.00

Gross Acres: Uinta Oil & Gas Inc. 100%

Name and Percentage of working interest owners: none

Name and Percentage of Overriding Royalty Owners:

Pooling Provision:

TRACT 5

Lessor: Gwendolyn Mojado

Lessee: Uinta Oil & Gas Inc.

Date of Lease: May 1996

Recorded: bk 634 pg 227

Base Royalty:

Description: Township 2 South Range 1 East USM
Section 2 SE4SE4
40.00

Gross Acres: Uinta Oil & Gas Inc. 100%

Name and Percentage of working interest owners: none

Name and Percentage of Overriding Royalty Owners: yes

Pooling Provision:

Lessor: Brenda Mojado

Lessee: Uinta Oil & gas Inc.

Date of Lease: May 1996

Recorded: bk 634 pg 229

Base Royalty:

Description: Same as above

Gross Acres: same as above

Name and Percentage of working interest owners: same as above

Name and Percentage of Overriding Royalty Owners: none

Pooling Provision: yes

Lessor: Riley Reed et al

Lessee: Uinta Oil & Gas Inc.

Date of Lease: May 3, 1996

Recorded: bk 634 pg 227

Base Royalty:

Description: Township 2 South Range 1 East USM

Gross Acres:

Name and Percentage of working interest owners:

Name and Percentage of Overriding Royalty Owners:

Pooling Provision:

Section 2 SE4SE4

40.00

Uinta Oil & Gas Inc. 100%

none

yes

Lessor:

Glen Murdock et ux, Ronald Murdock et ux, Stewart
Murdock et ux, Benny Murdock et ux, Mary Ward et
Collin Murdock estate

Unleased.

Lessee:

Date of Lease:

Recorded:

Royalty:

Description:

Township 2 South Range 1 East USM

Section 2 SE4SE4

40.00

Uinta Oil & Gas Inc. 100%

none

Gross Acres:

Name and Percentage of working interest owners:

Name and Percentage of Overriding Royalty Owners:

Pooling Provision:

TRACT 6

Lessor:

Lessee:

Date of Lease:

Recorded:

Base Royalty:

Description:

Ute Tribe & U.D.C #14-20-H62-4710.

Uinta Oil & Gas, Inc.

April 24, 1996

Bk 634 pg 231

Township 2 South, Range 1 East, U.S.M.

Section 2: SW4SE4NW4, W2NE4SE4NW4,

W2NW4NE4SW4

Gross Acres:

Percentage of working interest owners:

Name and Percentage of Overriding Royalty Owners:

Pooling Provision:

20.00

Uinta Oil & Gas Inc 100%

none

yes